

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4399 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SARVIYA G HARIDAS

Versus

VG JADEJA & ANR.

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Appearance:

MR MB GANDHI for Petitioner

MR HL JANI for Respondent No. 1

MR YS MANKAD for Respondent No. 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/10/96

ORAL JUDGEMENT

1. The counsel for the respondent no.2 states that he has no instruction in the matter. Heard learned counsel for the petitioner and learned counsel for the respondent no.1 and perused the Special Civil Application.

2. This petition has been directed by the petitioner

against the order passed by the respondent no.1 on 19th July, 1986 whereby the application made by the petitioner under sec. 23A of the Bombay Rent Control Act has been rejected. Under the aforesaid application, the petitioner prayed for grant of permission for electric connection which is an essential service. I have perused the order annexure 'B' on the record. The petitioner has prayed for the grant of permission for separate electric connection at the tenanted premises. It appears that the petitioner would have been sharing the electricity from the electric connection which is there at the house of which the tenanted premises is a part thereof. Under the said application, he prayed for separate electric connection and the landlord has not given the consent for the same. It is a case where the electric supply given to the petitioner has been disconnected by the landlord on the ground of non-payment of his share of the electricity consumption bill. The grievance of the petitioner seems to be that he has contributed his share, but despite of the same the electricity amenity has been discontinued. It also comes out from the order impugned that the landlord has filed the suit against the petitioner for eviction from the tenanted premises though the authority has proceeded on the ground that it is a case of non-payment of contribution by the petitioner of the electricity charges and as such, the action of the landlord to disconnect the electricity supply of the petitioner was held to be justified. But taking into consideration the fact that the electricity is essential amenity and as there is strained relations in between the petitioner and the landlord, it would have been in the larger interest to allow the petitioner to have a separate electric connection in the tenanted premises at his own costs. There is serious dispute between the parties whether the amount is paid or not. Looking to the fact that the landlord desires of evicting the petitioner, it is not safe to rely only on the version given out by the landlord of non-payment of contribution of his share of electricity consumption by the petitioner. The intention of the landlord is to get the premises vacated and in such case, he will try to put the tenant to utmost inconveniences. The approach of the Dy. Collector, Bhuj seems to be one sided and not in consonance with the advancement of the justice to the parties. In such matter, it is rather safe and advisable for both the parties to have their separate electric connection so long as the tenant continues in the premises. The counsel for the petitioner has made a statement before this Court that he will take the electric connection at his own costs. The Dy. Collector, Bhuj has failed to give out how the

application filed by the petitioner is not reasonable.

3. In the result, this Special Civil Application is allowed and the order of the Dy. Collector, Bhuj dated 19th July, 1986, annexure 'B' is set aside and the matter is remanded back to the Dy. Collector, Bhuj to decide the matter afresh in accordance with law. However, it is made clear that on the acceptance of the application, the petitioner shall bear out all the expenses of the installation of the electric connection at the tenanted premises. Rule is made absolute in the aforesaid terms with no order as to costs.

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